

Tessa A. Keller
Adam M. Taub
GARLINGTON, LOHN & ROBINSON, PLLP
350 Ryman Street • P. O. Box 7909
Missoula, MT 59807-7909
Phone (406) 523-2500
Fax (406) 523-2595
takeller@garlington.com
amtaub@garlington.com

Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

DESIREE BAKER,

Plaintiff,

v.

ALBERTON JOINT SCHOOL
DISTRICT #2,

Defendant.

NOTICE OF REMOVAL

TO: Desiree Baker and her attorney Quentin M. Rhoades of Rhoades & Erickson, PLLC; and the Clerk of the Montana Fourth Judicial District Court Mineral County:

Defendant Alberton Joint School District #2 (“Defendant”) respectfully gives notice and shows the Court:

1. On May 24, 2024, an action was commenced against Defendant in the Montana Fourth Judicial District Court, Mineral County entitled *Desiree Baker v. Alberton Joint School District #2*, Cause No. DV-31-2024-0000024-CR. *See* Comp. & Demand Jury Trial, May 24, 2024 (“Compl.”). Service of process was completed upon Defendant with Defendant signing Acknowledgement and Waiver of Service of Summons on October 28, 2024. Copies of the Civil Cover Sheet, Complaint and Summons are attached hereto as Exhibits A, B and C. No further proceedings have been had in the action.

2. Pursuant to 28 U.S.C. § 1446, Defendant’s removal of this action is timely as this removal was filed within 30 days of Defendant’s waiver and acceptance of service of Plaintiff’s Summons and Complaint.

3. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331, which provides, “[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” Specifically, Count II of the Complaint asserts unlawful retaliation in violation of Title VII of the Civil Rights Act specifically 42 U.S.C. § 2000e-3(a). Compl. ¶¶ 28-35. Accordingly, this Court has original jurisdiction over this action, and the action may be removed to this Court under 28 U.S.C. § 1441(a) and (c).

4. This Court has supplemental jurisdiction over the state-law discrimination claim under 28 U.S.C. § 1367(a), which provides, “in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy.” Specifically, Count I of the Complaint asserts unlawful retaliation in violation of Mont. Code Ann. §§ 2-2-145 and 49-2-301.

4. Under 28 U.S.C. § 1441(a), venue of this removed action is proper in this Court as the district and division embracing the place where the state action is pending.

5. Pursuant to 28 U.S.C. § 1446(d), Defendant will promptly give the adverse party written notice of the filing of this Notice of Removal, and promptly file a copy of this Notice of Removal with the Clerk of the Montana Fourth Judicial District Court, Mineral County, Montana. Specifically, Defendant will file a copy of this Notice of Removal with the Clerk of the Montana Fourth Judicial District Court, Mineral County, Montana within seven days of the filing of this Notice as required by Local Rule 3.3(a).

6. Pursuant to Federal Rule of Civil Procedure 81(c)(2)(C), Defendants will file their Answer within seven days after filing the Notice of Removal.

WHEREFORE, Defendant prays that the action now pending against it in the Montana Fourth Judicial District Court, Mineral County, be removed therefrom to this Court.

DATED this 6th day of November, 2024.

/s/ Tessa A. Keller
Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on November 6th, 2024, a copy of the foregoing document was served on the following persons by the following means:

_____	Hand Delivery
_____	Mail
_____	Overnight Delivery Service
_____	Fax (include fax number in address)
_____	E-Mail (include email in address)
<u>1-2</u>	ECF

1. Quentin M. Rhoades
RHOADES & ERICKSON PLLC
430 Ryman Street
Missoula, MT 59802
courtdocs@montanalawyer.com
Attorneys for Plaintiff
2. Clerk of District Court
Mineral County
P.O. Box 129
Superior, MT 59872

/s/ Amanda Balo